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OFFICE OF PETITIONS

In re Patent No. 7,589,216	:	DECISION ON REQUEST
Kapa et al.	:	FOR
Issue Date: September 15, 2009	:	RECONSIDERATION OF
Application No. 10/527,628	:	PATENT TERM ADJUSTMENT
Filed: May 25, 2005	:	and
Atty Docket No. PI/4-32685A	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 5, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and forty-six (1146) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and forty-eight (1148) days is **GRANTED to the extent indicated herein.**

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Petitioner has asserted that the commencement of this application occurred on March 14, 2005. The priority date is September 19, 2002, and the thirty-month anniversary of this date is March 19, 2005. March 19, 2005 fell on a Saturday, which means that the commencement date is the next business day: March 21, 2005.

The patent issued three years and 543 days after the commencement date, and as such, the period of "B-delay" totals

543 days. The days beginning on March 22, 2008 and ending on September 19, 2008 overlap with the period of "B-delay," and as such there are 182 days of overlap. Reducing the 543-day "B-delay" by the 182 days of overlap results in 361 days of patent term adjustment that will be added to the 787 days of patent term adjustment that has already been accorded, to result in a patent term adjustment of 1148 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and forty-eight (1148) days**.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,589,216 B2

DATED : September 15, 2009

DRAFT

INVENTOR(S) : Kapa et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 787 days

Delete the phrase "by 787 days" and insert – by 1148 days--